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APPLICATION NO.	FI	LING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,991 11/12/2003		11/12/2003	Gabriel Pulido-Cejudo	472035-230-D1 6527	
27805	7590	07/12/2006		EXAMINER	
THOMPSO	N HINE	L.L.P.	YU, MISOOK		
P.O. BOX 8	801				
DAYTON,	OH 4540	1-8801	ART UNIT	PAPER NUMBER	
,				1642	

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<del>-</del>		Application No.	Applicant(s)					
		10/705,991	PULIDO-CEJUDO, GABRIEL					
	Office Action Summary	Examiner	Art Unit					
		MISOOK YU, Ph.D.	1642					
Period fo	The MAILING DATE of this communication app or Reply	ears on the cover sheet with the c	orrespondence ad	dress				
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REPLY CHEVER IS LONGER, FROM THE MAILING DANSIONS of time may be available under the provisions of 37 CFR 1.13 SIX (6) MONTHS from the mailing date of this communication. To period for reply is specified above, the maximum statutory period were to reply within the set or extended period for reply will, by statute, reply received by the Office later than three months after the mailing and patent term adjustment. See 37 CFR 1.704(b).	ATE OF THIS COMMUNICATION 36(a). In no event, however, may a reply be tirularly and will expire SIX (6) MONTHS from cause the application to become ABANDONE	N. nely filed the mailing date of this co ED (35 U.S.C. § 133).					
Status								
1)[🛛	Responsive to communication(s) filed on 12 No.	ovember 2003.						
	· · · · · · · · · · · · · · · · · · ·	action is non-final.						
3)□	☐ Since this application is in condition for allowance except for formal matters, prosecution as to the meri							
,—	closed in accordance with the practice under <i>Ex parte Quayle</i> , 1935 C.D. 11, 453 O.G. 213.							
Disposit	on of Claims	•						
4) 又	Claim(s) <u>1-8</u> is/are pending in the application.							
-	4a) Of the above claim(s) is/are withdrawn from consideration.							
	Claim(s) is/are allowed.							
	Claim(s) is/are tallowed.  Claim(s) is/are rejected.							
	Claim(s) is/are objected to.							
	Claim(s) <u>1-8</u> are subject to restriction and/or ele	ection requirement.						
	on Papers							
_	•	_						
	The specification is objected to by the Examine		<b>-</b>					
10)[_]	10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
	Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).							
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).  11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.								
		aminer. Note the attached Office	Action or form PT	O-152.				
Priority (	ınder 35 U.S.C. § 119							
	Acknowledgment is made of a claim for foreign ☐ All b) ☐ Some * c) ☐ None of:	priority under 35 U.S.C. § 119(a)	)-(d) or (f).					
	1. Certified copies of the priority documents	s have been received.						
	2. Certified copies of the priority documents	s have been received in Applicati	on No					
	3. Copies of the certified copies of the prior	ity documents have been receive	ed in this National	Stage				
	application from the International Bureau	ı (PCT Rule 17.2(a)).						
* 5	See the attached detailed Office action for a list	of the certified copies not receive	ed.					
Attachmen	t(s)							
1) 🔲 Notic	e of References Cited (PTO-892)	4) Interview Summary						
2) Notic	e of Draftsperson's Patent Drawing Review (PTO-948)	Paper No(s)/Mail Da	ate	150				
	nation Disclosure Statement(s) (PTO-1449 or PTO/SB/08) r No(s)/Mail Date	5)  Notice of Informal F 6)  Other:	atent Application (PTO	J-132)				

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## **DETAILED ACTION**

## Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

Claims 1-4, drawn to method of detecting breast cancer, classified in class
 435, subclass 7.23.

II. Claims 5-8, drawn to method of detecting metastatic cancer, classified in class 435, subclass 18.

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different designs, modes of operation, and effects (MPEP § 802.01 and § 806.06). In the instant case, the different inventions are different method involving different patient samples for different purposes (i.e. breast cancer detection for invention I, and any metastatic cancer detection for invention II).

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.

Because these inventions are independent or distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species: detection method of immunoassay or activity of es-LAPase. The species are independent or distinct because the two different assays require different active agents (i.e. antibody for immunoassay and the substrate for the es-LAPase activity).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the

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requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to MISOOK YU, Ph.D. whose telephone number is 571-272-0839. The examiner can normally be reached on 8 A.M. to 5:30 P.M., every other Friday off.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jeffrey Siew can be reached on 571-272-0787. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

MISOOK YU, Ph.E Primary Examiner Art Unit 1642